

## HUMAN SERVICES BOARD

## INTRODUCTION

## FINDINGS OF FACT

2. The petitioner called her insurance company who told her that it might be covered because of the chimney cap having blown off her chimney this winter. Based on this conversation the petitioner directed the contractor to install a new

furnace, which was done on March 22, 2000. The petitioner has not been without heat since that date.

3. Sometime within the next few days an adjuster for the petitioner's insurance company informed her that it would not cover the replacement because her old furnace had become rusted over time.

4. On March 28, 2000, the petitioner applied for Crisis Fuel Assistance to pay for the new furnace. The Department denied this application because of its determination that the petitioner was not facing a heating emergency at that time.

5. The contractor who installed the new furnace is charging interest on the unpaid balance, but is not threatening to remove the furnace from the petitioner's home.

6. The petitioner had just bought her home in the fall of 1999. Prior to purchasing it she had an inspection done, including the heating system, and no problems were noted.

7. As of the date of the hearing in this matter, April 20, 2000, the petitioner had not sought redress from either the insurance company, the sellers of the home, or the person who inspected the home prior to her purchase. At the hearing the petitioner was advised to contact the Vermont Department of Banking, Insurance, Securities and Health Care Administration for help in pursuing her insurance claim.

ORDER

The decision of the Department is affirmed.

REASONS

The Crisis Fuel Assistance regulations include the following provisions:

Crisis assistance in accordance with the following regulations may be extended to alleviate an emergency due to lack of heating capacity for individual households. . . . (WAM § 2950)

It is not the intent of these regulations to define a program of entitlement. . . . It is the intent of this regulation to provide a framework within which staff, based on their judgement, may grant assistance to households who face a heating crisis. . . . Within this framework, staff will determine eligibility on the basis of conserving program funds and utilizing client resources to the maximum extent reasonably possible. Staff will make every effort to assist those who are being denied eligibility to find alternative solutions to their problem. (WAM § 2951)

In this case there is no dispute that the petitioner applied for Crisis Fuel Assistance after she had resolved her heating crisis on her own, but before she had paid for it. Under the above regulations, however, even if it could now be determined that the petitioner may have been found eligible if she applied for assistance prior to her new furnace having been installed, it cannot be concluded that the petitioner is "entitled" to such assistance retroactively. For one thing,

she is no longer facing an imminent loss of heat, even if she cannot pay her contractor.<sup>1</sup> Another thing is that it cannot be concluded that the petitioner has exhausted other avenues of paying for the new furnace, either through further pursuing an insurance claim or by seeking redress from the sellers of her home or the inspector who certified her old furnace as operational.

Inasmuch as it cannot be concluded that the Department's decision in this matter was not in accord with the above regulations, the Board is bound by law to affirm that decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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<sup>1</sup> There is no indication that the petitioner has yet attempted to work out a payment plan with her contractor.